Commencing with the name of Allah, The Most Compassionate, The Most Merciful.

All praises belong to Allah Azza Wa Jal, the Sustainer of the entire universe. Greetings, blessings and Salutations be upon the Most Beloved of Allah Azza Wa Jal, His beloved Rasool Hazrat Muhammad Mustafa Sallalahu `alaihi Wa Aalihi wa Sahbihi wa Ahle Baitihi wasallam.

Ammaa Ba'd

Revered Ulama-e-Ikraam

Assalamo Alaikum Wa Rahmatullahe Wa Barakatuhu

I have received some questions from the public and from Ulama as well in regard to the moon sighting.

I have answered the questions with good intentions. First and foremost I intend to please Allah Azza wa jal and His Beloved Rasool (Peace and salutations be upon him). Secondly, I intend to help the Muslim Ummah, through my research, to find a way in the light of Shariat in which there is ease for the Muslim masses and to safeguard them from hardships, confusion, conflict and distrust on the Sunni leadership.

I regard myself as a student and a servant of Ulama-e-Ikraam and welcome any criticism, however, I would only engage with Ulama on an academic level on this matter and only those Ulema who know the true condition of this part of the world, the mind-set of the people, what drives the masses away from Deen o Sunniyyat and what brings them closer to Deen o Sunniyyat and also the *Urf* of this country. I encourage my Ulema colleagues to research the matter and engage in dialogue so that we can put this matter to bed.

I have answered these questions in my personal capacity. It is in no way a representation of any organization.

Please find my responses below:

Q. What is the need and significance of sighting the moon in Islam?

A: It is mentioned in a Hadith-e-Mubarakah regarding the moon sighting.

"Fast when sighting the moon and stop fasting (celebrate Eidul Fitr) when sighting the moon" (Sahih Bukhari- ***BABU IZA RA AITUMUL HILAALA FA SOOMU*.** Qadimi kutub khana vol 1 page 256)

If the proof is established with Sharée Shahaadat (evidence) of moon sighting, then Ramadan and Eid etc. will take place. From amongst the pillars of Islam, fasting and Haj are connected to moon sighting. Besides these two pillars of Islam there are many other matters of Islam which are based on the lunar calendar, for example Eidul Fitr, Eidul Adha, Iddat (4 months and 10 days) for a widow etc. Similarly the Zakaat calculation is based on the passing of a Lunar Year. The lunar year is 10 days shorter than the solar year. There are many Sharée matters which require the sighting of the moon for its performance and for its correctness.

That is the reason why Fuqaha (Islamic jurists) have regarded the sighting of the moon for the following five months as Wajib Kifaya. If none of the Muslims try to sight the moon for these months then everyone will be regarded as sinners.

Sighting the moon of Sha'baan on the 29th of Rajab

Sighting the moon of Ramadan on the 29th of Sha'baan

Sighting the moon of Shawwaal on the 29th of Ramadan

Sighting the moon of Zul Qa'dah on the 29th of Shawwaal

Sighting the moon of Zul Hijjah on the 29th of Zul Qa'dah

For the sighting of the moon a minimum of two males or one male and two female witnesses are required who are Aadil (upright Muslims/Muttaqis/not openly involved in sins). However the criteria for sighting the moon for Ramadan and Shawwaal is a bit different.

For the sighting of the moon of Ramadan, if the sky is unclear, the Shahaadat of one Aadil person is enough (male or female) and if the sky is clear then the news of Jamme Ghafeer (a large crowd, some jurists have said a minimum of 50 people) is necessary.

For the crescent of Eidul Fitr if the sky is unclear, a minimum of two males or one male and two female witnesses are required who are Aadil (upright in their character) and if for the crescent of Eid the sky is clear and people are not lazy to sight the moon then the condition of Jamme Ghafeer (a large crowd) would also be applicable as in the case of the Ramadan crescent.

Q. A large group of people are required to sight the moon when the sky is clear. In Johannesburg the sky was crystal clear on Sunday evening. Moulana Aslam took Shahaadat from three people only. Can this Shahaadat be accepted?

A: According to the research of great Mujaddid Sayyidi wa Murshidi A'la Hazrat Imam-e-Ahle Sunnat Imam Ahmad Raza Khan Muhaddith-e-Barailwi (May Allah be pleased with him), when the sky is clear and people are **lazy** to sight the moon even for the moon of Eid, two witnesses are sufficient.

A'la Hazrat (May Allah be pleased with him) writes:

"But in both Eids when the sky is clear and Muslims are **not lazy** in sighting the moon and those two witnesses have not come from the jungle or from a high-altitude, in this case a big group of people is required" (Fatawa Razvia Vol 10 page 406)

This quotation of Fatawa Razvia is clear that when the horizon is clear the condition of Jamme Ghafeer in sighting the moon is required only when people are **not** lazy, and if they are lazy then the condition of Jamme Ghafeer will fall away and two witnesses would be sufficient.

In this day and age the laziness of Muslims in sighting the moon is quite evident. Instead of looking for the moon in the sky people rely on Radio/TV/social media etc for the news of moon sighting. Therefore in this day and age two witnesses for the crescent of Eid would be sufficient even when the sky is clear.

A'la Hazrat (May Allah be pleased with him) writes further with the reference of Raddul Mukhtaar:

"And it is said in Bahrur Raaiq when the people are lazy in sighting the moon, as it is happening in our time, then we should practice that Riwayat (that narration which suggests) that two witnesses are enough" (Fatawa Razvia vol 10 page 407)

If this was the condition of laziness of people in sighting the moon in the time of Saahib-e-Bahrur Raaiq that he advised the opinion of two witnesses should be practiced, then in our time the laziness of people in sighting the moon is certainly greater.

Q. Moulana Aslam represented Sunni Ulema Council when taking Shahaadat. Does Shariah give him or SUC the right to act as a Qazi and declare Eid?

A: In a place where there is no Qazi of Shariah or in non-Islamic states, the Aalim/Mufti of Islam will act as a Qazi, preferably that Aalim/mufti who is the most prolific in Ilm-e-Fiqh in comparison to everyone else in that city. If a Qazi or Mufti or Aalim is not present in that city, the witnesses can give Shahaadah by uttering the words "I bear witness" in front of a group of Sahihul Aqidah Muslims. This Shahaadah will be valid and the sighting of the new moon would be established.

Sayyidi A'la Hazrat (May Allah be pleased with him) writes:

"When a time is void of such a ruler who handles Sharée matters then all the Sharée matters would be handled by the Ulama. It would be necessary for the Muslims to refer to Ulama in all their Shar'ee affairs. In this situation, only Ulama would be regarded as **Qazis or Rulers**. If it is difficult for people to agree on one Aalim, then people from different districts should follow their own Aalim. If in a district where there are many Ulama, then follow the one that has the greatest amount of knowledge of Shariat. If all of them are equal in knowledge then one Aalim's name should be picked via a draw" (Fatawa Razvia vol10 page 409)

At the moment in the city of Johannesburg amongst the resident Sunni Imams and Aalims, Moulana Aslam is known to us as the most knowledgeable in Fiqhi Masaail. Benoni, Lenasia and Pretoria are cities on their own. Even if we include Pretoria, Benoni and Lenasia as part of the City, what yardstick will be used to check who is more knowledgeable in Ilm-e-Fiqh since almost all the Ulama have no practical involvement in any active Darul Ifta in Gauteng? Even a practicing Mufti who comes from another country forgets many basic talents and becomes dormant after few years. In our situation this question of who is more knowledgeable in Ilm-e-Fiqh must not come up. Unless a test is conducted.

It must be noted that in the above quotation of Fatawa Razvia the condition of the most knowledgeable Aalim is not the first option for the appointment of a Qazi. The first option is "their own Aalim". If people disagree on that Aalim then move to the Aalim of their own district. Ultimately when there is a dispute on the Aalim of the district because there are many Ulama and it is difficult to agree on one then comes the turn of biggest Aalim. People in and

around Johannesburg are not heard complaining about Moulana Aslam for his services to the community in Shar'ee matters. In fact many Sunni Muslims of the Johannesburg area go to him and get solutions to their religious problems. He has an established office to render services of this nature. Therefore the need to go to the biggest Aalim does not arise in this case.

The condition of being the biggest Aalim is not an *IHTIRAZI SHART* (compulsory condition). It actually means that the preference must be given to the most knowledgeable person to hold this position of Qaza. If people leave the greatest Aalim and they appoint the less knowledgeable person as a Qazi, they will make a mistake and it is a sin. Also it is necessary upon the people to return to the biggest Aalim (for guidance) as mentioned in Fatwa Razvia vol 14 page 169.

However the appointment of a less knowledgeable person as a Qazi will still be valid and decisions made by such a Qazi would also be valid and enforced (its references will come in this document), because knowledge is not the condition of correctness for appointing a Qazi.

A'la Hazrat (May Allah be pleased with him) writes in the his Risla *AL HIBATUL AHMADIYA FIL WILAYATISH SHAR'ÍYA WAL URFIYA* "

ILM (knowledge) is the condition of Owlawiyyat (preference) not a condition of correctness (for the appointment of Qazi)" (Fatawa Razvia vol 18 page 554)

Being an Aalim is not a necessary condition for being a Qazi as we have just seen in the quotation of Fatawa Razvia. The meaning of "biggest Aalim should be appointed as a Qazi" is this that such a prestigious position is meant for the people of great knowledge of Shariat. A non Aalim must not be given these types of extraordinary positions but if this high-profile position is given to a person with lesser knowledge and he passes the judgement, that judgement or decision would be valid.

Sayyidi A'la Hazrat (May Allah be pleased with him) writes further on this topic:

"It is not a condition that a Qazi must be an Aalim or Mujtahid" (Fatawa Razvia vol 18 page 175)

A'la Hazrat (May Allah be pleased with him) writes further:

“A place where there is no Alim then the witnesses must give evidence in front of a group of Muslims, for example they should give Shahaadah in a Jaame’ Masjid” (Fatawa Razvia vol 10 page 456)

In the above mentioned quotation of Fatwa Razvia, even the Sahihul Aqeedah public can perform the duty of a Qazi at the time of need.

Sunni Ulama Council is an organization of Sahihul Aqidah Sunni Ulama. If one of its members, authorised by SUC and is an Aalim, takes Shahaadah from witnesses, the other members of the Council who are also Ulama authorize and endorse the Shahaadah proceedings and together announce the sighting of the moon, then it is indeed a valid announcement of moon sighting according to Shariat.

It is an accepted fact that a Haakim (ruler) can appoint a Qazi. SUC and SJU and other Sunni Ulama bodies (if there are any) are Ulul Amr (People of Islamic Judicial Authority). People seek assistance and help from them with regards to relevant Islamic issues including but not limited to Namaz, Roza, Haj, Zakaat, Nikah, Talaq, Inheritance, Wasiyyat Khula’Fasakh etc. The chairmen of these Ulama organizations would be regarded as Haakim-e-Sharée (see fatwa Razvia vol 10 page 409 cited above) and when a Hakime Sharée appoints someone as a Qazi, that person becomes Qazi.

Even if Moulana Aslam was not appointed by anyone and only went to observe, then took Shahaadat on the invitation of someone, as some brothers are claiming, then too I don’t see any grounds for his taking Shahaadah to be rejected. He is the Aalim of that area and not disputed amongst the people who live in that locality. He will then automatically become the Qazi without anybody’s appointment. (Refer to above quotation of Fatawa Razvia vol 10 page 409)

A learned colleague told me that Moulana Aslam was not sent to take Shahaadah by Moulana Sayyid Yousuf Sahib. He was actually sent as an observer and therein a Wahabi told him to take Shahaadah. I replied that my viewpoint is not based on any letter, I based all my arguments on what I have asked Moulana Aslam directly. I phoned Moulana Aslam again to make sure that I have not misunderstood him in any way. He reconfirmed to me that he was indeed sent to take Shahadat by Moulana Sayyid Yousuf. I also have a letter in my possession from SUC (signed by Moulana Sayed Yousuf) stating that Moulana Aslam was indeed sent by SUC to take Shahaadat.

Q. Some commentators say that it was highly unlikely that the moon was visible on Sunday evening. Can Shahaadat be accepted if according to scientific calculations the likelihood of seeing the moon was very slim?

A: Sadrushriah Badrutariqah Hazrat Allamah Mufti Amajad Ali A'zami (May Allah be pleased with him) writes:

"If a person who is acquainted with the science of astronomy says that today the moon will be sighted or not, his statement is nothing even if he is an upright person, and even if many people make the same statement. Because in Islam the moon sighting is confirmed with the actual sighting or with Shahadah" (Bahare Shariat vol 1 part 5 page 975 *MUkHARRAJ,* publisher Maktabatul Madinah)

The above makes it clear that scientific calculation of the birth of moon cannot entirely be the basis of moon sighting or rejection of moon sighting but these facts can indeed be helpful to scrutinize witnesses. Even if, according to scientific calculations, the likelihood of seeing the moon was very slim, there still was a possibility that the moon could be sighted as the letter issued by Sunni Ulama Council Gauteng, states.

Q. Can the Shahaadat of a BudMazhab (person holding false beliefs) be accepted?

A: BadMazhab is an Urdu word which means "the one who holds corrupt beliefs". This corruption in the belief system sometimes reaches the limit of Kufr and sometimes it is less than Kufr. When it is not Kufr it would definitely be a Gumrahi (misguidance). The word BadMahzhab is used on both the above mentioned types of people. If the BadMazhab holds Kufr beliefs, his Shahadat is absolutely unacceptable but if his Aqidah has not reached the limit of Kufr for example he does not openly insult the beloved Prophet (peace be upon Him), Buzurgaan-e-Deen or Sahaba Ikraam, his Shahadah is accepted (it means when there is no sign or evidence of his Kufr). Huzoor Sadrushriat (May Allah be pleased with him) writes:

"The one who talks bad openly about Bazurgaan-e-Deen, leaders of Muslims like Sahaba Ikraam, his Shahadat is not accepted. Imame A'zam Abu Hanifah

(May Allah be pleased with him) is amongst the Bazurgaan-e-Deen. Rawafiz (Shias) speak ill of Sahaba-e-Ikraam (May Allah be pleased with them) and Ghair Muqallids badmouth the Mujtahid Imams especially Imam-e-A'zam Abu Hanifa (May Allah be pleased with him)" (Bahare Shariat vol 2 part 12 page 949 *MUKHARRAJ*)

In the above quotation of Sadrush Shariah it is clearly stated that, the rejection of Shahadat is based on the clear badmouthing of Bazurgaan-e-Deen and Sahaba-e-Ikraam. If the Shahaadat of a BadMazhab was rejected altogether then there was no need to mention the word "openly badmouthing". It is clear from the quotation of Bahare Shariat that if there is no open badmouthing there is no rejection of Shahadah.

Note: At this juncture I took Mafhoom-e-Mukhalif (apposite meaning "if there is no open badmouthing there is no rejection of Shahadah"). Taking Mafhoom-e-Mukhalif is correct in the Ibaraat of books.

A'la Hazrat (May Allah be pleased with him) writes while refuting the crippled proofs of Deobandies:

"In the IBARAAT of books Mafhoome Mukhalif is undoubtedly reliable. It is mentioned in Shami printed in Qustuntunya vol 5 page 52 "in the IBARAAT of books Mafhoome Mukhalif is reliable. as the Ulama of Usool have Explained "further it is mentioned in Shami vol 1 page 167 "at the time of question Fatwa will be given on it, because in the IBARAAT of books Mafhoome Mukhalif is reliable as it is discussed before"(Fatwa Razvia vol 5 page 634)
Sayyidi A'la Hazrat (May Allah be pleased with him) writes at another place:

"It is not acceptable to say that the Hanafis do not accept (Mafhoome Mukhalif). Hanafis do accept it, only in the Kalaam of Allah Azza Wa Jal and His Rasool (peace be upon Him) about the matter of punishments Mafhoome Mukhalaif is not valid. Besides this, Mafhoome Mukhalif is reliable in the Kalaam of Sahabah-e-Ikraam and the Ulame-e-Ikraam who came after them (Sahabah), as it is mentioned in Usool, Nahr, Faaiq and Durrul Mukhtaar etc."(Fatawa Razvia vol 5 page 294)

This view (Shahaadat of BadMazhab is accepted who has not reached the limit of Kufr) is backed by the quotations of many other Hanafi Fiqh books.

It is mentioned in Al-Mabsoot of Imam Sarkhasi (May Allah be pleased with him):

"Imam-e-A'zam Abu Hanifa and Ibne Abi Laila (May Allah be pleased with them) have said, Shahaadat of Ahle Ahwa (Gumrah/Bidáti) is Jaaiz and that is the viewpoint of all Hanafi scholars" (Al-Mabsoot Li sarkhasi vol 19 page 174)

Keep in mind that in the ranking of the Hanafi books of Fiqh the first place is for MATOON then *SHUROOH* and then *FATAWA*. Al-Mabsoot of Imam Sarkhasi is the topmost Sharah (commentary) of Kitabul Kaafi of Haakim As-Shaheed in which the six books of Usool (also known as Zahiru-Riwayah) are sited (the six books are: Jame'Kabeer, Jaame'Sagheer, Mabsoot, Ziyadaat, Siyar Kabeer and Siyar Sagheer). Allamah Shami (May Allah be pleased with him) writes about the greatness of Al-Mabsoot of Imam Sarkhasi:

"It's opposing Masála would not be practiced. There is no reliance but on it. Fatwa will not be given and there will be no trust but on it" (Fatawa Shami vol 1 page 64- reference from Fatawa Nooria vol3 page 472)
Allamah Shami (May Allah be pleased with him) writes regarding the Massail of different categories of books:

"*MATOON (1)* are preferred over the *SHUROOH(2)* and the *SHUROOH* are preferred over the *FATAWA(3)*" (Fatawa Shami vol 1 page 66- reference from Fatawa Nooria vol 1 page 560).
The Al- Mabsoot of Imam Sarkhasi is in the second category. This means that the Masála mentioned in Al-Mabsoot will be given preference over Fatawa.

It is mentioned in Durre Mukhtaar:

"The Shahaadat of Ahle Ahwa or Ahle Bidáh (those who have corrupt beliefs) **is accepted as long as their Aqeedah has not reached the limit of Kufr**, like Jabria, Qadria, Rawafiz and Khawarij (only those Rawafiz and khawarij who have not reached the limit of Kufr in regard to their Aqidah) (Durre Mukhtaar vol 5 page 472, publisher Darul Fikr Beirut)

In Tabyeenul Haqaaiq it is explained who are the Ahle Ahwa:

"It is mentioned in the books of Aqaaid that Ahle Ahwa are those people of Qibla whose beliefs are not like the beliefs of Ahlussunnah wal Jama'h (it means that they are Gumrah or Bidáties)" (Tabyeenul Haqaaiq vol 2 page 161)

Allamah Shami (May Allah be pleased with him) writes:

“Every person who holds an opinion against Ahle Sunnat Wal Jamaáh is from Ahle Ahwa” (Raddul Mukhtaar ala durril Mukhtaar vol 5 page 472, publisher darul fikr Bairuut)

A’la Hazrat (May Allah be pleased with him) has not refuted the validity of the Shahaadat of Ahle Ahwa nor did he make any re-interpretation of the ruling of the early Fuqaha in this regard, rather A’la Hazrat (May Allah be pleased with him) writes that the Namaz behind Ahlul Ahwa and Bidáti is Jaaiz with Karaahat (dislike). Ala-Hazrat (May Allah be pleased with him) states:

“Namaz is Jaaiz behind Ahle Hawa and Bidáti but not behind the Rafazies (because these day’s Shias have Kufr beliefs). In a nutshell, if it is such Bidáh, because of which the Bidáti does not become Kafir then the Namaaz is Jaiz behind him with Karaahat, and if that Bidát is Kufr then the Namaaz will not be Jaaiz. This is how it is mentioned in Tabyeen, and Khulasa and this is correct and similarly mentioned in Badaae’ (Fatawa Razvia vol 14 page 294)

Q. Can the Shahaadat of a Faasiq (sinner) be accepted with regards to the sighting of the moon?

A: It is Na Jaaiz to accept the Shahadah of a Faasiq (a sinner). The Qazi would become a sinner by accepting the Shaahadat of a sinning witness. However, if the Qazi has accepted the Shahadah of a Faasiq then his decision would be accepted as a valid decision according to Shariat.

Huzoor Sadrushriah (May Allah be pleased with him) writes:

“If a Faasiq hopes that the Qazi will accept his Shahaadah then it is necessary upon him to give Shahaadah” (Bahare Shariat vol1 part 5 page 976 *MUKHARRAJ*)

We understand that the Shahaadah of a sinner is based on the discretion of the Qazi. If the Qazi wants, he can accept the Shahaadah of a Faasiq. The Qazi would be committing a sin by accepting the Shahaadah of a Faasiq but the Shahaadah itself would be valid and the ruling given based on this Shahaadah of Faasiq would be binding.

A’la Hazrat (May Allah be pleased with him) writes about the Shahaadah of three persons. The concept translation is as follows:

1. It is unconditionally binding on an Aadil to give Shahadah of the sighting of the new moon on the same night of the sighting of the moon of Ramazaan, Eid al-Fitr and the sighting of the Moon of Zil Hijja until the 8th of Zil Hijja.
2. It is Waajib on a Mastoor (person whose deeds are not known) to give Shahaadah of his sighting of the moon only in Ramazaan on the same night of the sighting of the moon.
3. If a Faasiq has a perception that his Shahaadah will be accepted by the Haakim-e-Shar'ah, then he must give Shahaadah on the same night of the sighting of the moon of Ramazaan, Eid al-Fitr and the sighting of the Moon of Zil Hijja until the 8th of Zil Hijja.

(Fatawa Razvia vol 10 page 453)

A'la Hazrat (May Allah be pleased with him) writes at another place:

"The correct view is that even if a Muslim is a Faasiq; he still qualifies to give Shahaadah but it is Na jaaiz to accept his Shahaadah except in the situation where the Qazi feels that the impious witness is truthful in this particular matter and this is included in Tabayyun (process of verifying the statement of a Faasiq).

Allah Azzawajal says in the Glorious Quran: O Believers! If any transgressor brings you some news, verify it, so that you unknowingly may not cause suffering to some people, and then be embarrassed for what you did (al Hujraat verse 6)

When the Mufti who is a judicial authority (Ahle Fatwa) is satisfied with the evidence (of the transgressor) as truth, then his ruling becomes a valid evidence of Shariat. Ramadan and Eid will become Wajib on his announcement. Nobody from the community will have any right to oppose this decision of the Qazi" (Fatawa Razvia vol10 page 446)

A'la hazrat (May Allah be pleased with him) has made it clear that the Shahaadah of a Faasiq is based on the discretion of the Qazi. When the Qazi is examining the witness and he feels that in this particular matter, the impious (Faasiq) witness is not untruthful, he (the Qazi) can then make a decision of moon sighting on the Shahaadah of a Faasiq and his decision would be Wajibul Amal (necessary to be practiced).

Q: Is the issue of Wahabi/Sunni and beard etc. the only things which make the witness unworthy of Shahadah or are there other things as well?

A: Below is a short list of those whose Shahaadat is unworthy and rejected:

1. A Murtad (an Apostate)
2. A Kafir's Shahadat against a Muslim
3. One who is deaf and dumb
4. One who commits major sins
5. Singers (male or female)
6. One who takes Qasam (oaths) a lot
7. One who habitually uses vulgar language.
8. One whose sells Kafan and perfume for Janaza (as a living).
9. Brokers (of anything) because they speak a lot of lies
10. Lawyers, they speak lots of lies and advise their clients to speak lies
11. One who plays with animals like pigeons (as hobby) and causes animals to fight
12. One who associates with sinners
13. One who baths naked in a public bathing area
14. One who takes Riba (interest)
15. A Gambler
16. One who plays cards or chess and this leads him to miss his Namaz
17. One who plays in the streets
18. A Poet who mocks others
19. One who makes his Namaz or Roza Qaza without a Sharée reason
20. One who misses Jumma'h because of laziness
21. One who misses Jama'at without a Sharée reason, he reads his Namaz at home
22. One who openly insults the Awliya or Sahabah
23. One who urinates on the pathway (public)
24. One who eats on the pathway (public)
25. One who eats in the market place in front of people
26. One who remains bare headed where covering the head is a sign of nobleness, decency and respect
27. One who spreads his legs in front of other people
28. One who takes bribes
29. One who keeps his beard less than a fistful (four fingers)

The above examples are taken from Bahare Shariat on various pages. See chapter on Shahaadah.

A'la Hazrat (May Allah be pleased with him) writes a few more examples in Fatawa Razvia Shareef. One such example is that as soon as a lunar year is completed it becomes Wajib to dispense your Zakaat immediately (if you are Sahib-e-Nisaab). Delaying payment by even a short period of time is regarded as a sin. The Shahaadat of a person who delays in the payment of his Zakaat is not accepted by the sacred Shari'ah. (See Fatwa Razvia vol 10 pages 77).

There are numerous such examples in the books of Fiqh. Considering the above, if we do not leave the Shahaadat to the discretion of the Qazi then the Muslim Community will face huge difficulties. The safest option is to trust and accept the discretion of the Qazi and not go into details on our own, otherwise there will be chaos. Together with the Sunni and Wahabi issue the witness then must be asked if he misses Salaah in Jamaat or does he sometimes eat in restaurants in a mall/public place or does he associates with sinners (for example who intentionally miss their Salaah, or miss Jamaat for no valid Sharée reason, listen to music, waists time in futile things etc.) or did he delay at any time in paying his zakat etc and many more. The only option we have is to leave it to the discretion of the Qazi who will do necessary investigation and pass the judgement.

Q. According to our knowledge, Moulana Aslam did not question the witnesses regarding their Aqeedah nor did he take their contact details. Can this type of Shahaadat be accepted?

A: Even though it is necessary for the Qazi to satisfy himself regarding the authenticity of the witness, however, if the Qazi did not examine the witness and took Shahaadat and passed the judgment then the judgement would still be valid, even though the Qazi will become sinner for not making Tazkiya (investigating) of the witness.

Huzoor Sadrushariat (May Allah be pleased with him) writes:

"In front of whom the Shahaadat is presented (like a Qazi), it is not necessary for him to ask the witness the height, direction, size etc. of the moon but if the statement of the witness is doubtful then the Qazi should ask questions. Especially for the moon of Eid because people haphazardly sight the moon for Eid" (Bahare Shariat vol1 part5 page 976)

According to Shariat the only thing which is necessary (as a Rukn of Shahaadat) for the witness to say, at the time of giving Shahaadah, are the words *ASH-*

HADU or its equivalent words in his own language, like in English "I hereby testify" and in Urdu "main gawahi deta hon". The witness must also mention the year, the month, the day, the time of sighting and the place of sighting in the presence of the Qazi or Mufti. Other questions are at the discretion of the Qazi. If the Qazi is doubtful in any matter he would question the witness and if he is not doubtful then it is not necessary to burden the witness with questions.

To tell the name and father's name and grandfather's name is only necessary in the case of Shahadat Alashahadat which is the second method of confirming the moon sighting from the 7 methods which A'la Hazrat (May Allah be pleased with him) has written. It means that the proxy witness will say to the Qazi that so and so (the original witness) son of so and so who is son of so and so has appointed me as a witness on his sighting of the moon. This is a unique situation and not applicable for every Shahaadah. (For details please refer to Fatawa Razvia vol10 page 411)

The rule is, when Shahaadat is given about the absent person then his name and his father's name and his grandfather's names must be mentioned. In the case of Shahaadat Alashahaadat the original witnesses are Ghaaib (absent) therefore his name and father's name and grandfather's name must be mentioned. (See detail in Fatwa Razvia vol 18 page 682)

Thus it is not necessary for a Qazi to ask the original witness about his name, father's name or grand father's name nor his address or phone numbers.

Q. What is the jurisdiction of SUC Gauteng? Will their announcement be applicable for the entire country?

A: Mufti-e-A'zam Pakistan Hazrat Mufti Waqaruddeen Amjadi (May Allah be pleased with him) writes:

"When the moon sighting is proven at one place with the Sharée method and the Qazi of that place gives the order of moon sighting on the Shahadah which he has received, his announcement in his jurisdiction (area) will be accepted" (Waqarul Fatawa vol 2 page 426)

Hazrat Mufti Waqaruddeen Amjadi (May Allah be pleased with him) further writes:

“When the Central Hilaal Committee makes the announcement after taking the Shahaadat, the announcement is valid for the entire country” (Waqarul Fatawa vol 2 page 420)

The jurisdiction of SUC and SJU is for the whole of South Africa. These organizations were formed to address the problems of Muslims individually and collectively within the Muslim community countrywide. Therefore the announcement of SUC or SJU individually or collectively will be accepted throughout South Africa.

Q. SUC Gauteng claims to be part of UUCSA’s Ro’yate Hilaal Committee. Is it acceptable for Sunni Ulema or a Sunni Ulema Body to be part of such a committee which has Wahabis and Deobandis in it (please substantiate)?

A: A Roýate Hilaal Committee in which there are members who are BadMazhab like Doebandies, Ahle Hadith/Salafies and Shias etc. and if the decision of this committee is widely accepted by the Muslim public whether it is because this committee is backed by the government or it is for the purpose of saving the Sunni public from confusion and infighting or this committee has developed such credibility in the community that the Muslim masses accept and practice upon the announcement of such a Roýate Hilaal committee, due to circumstances, it is allowed for a Sunni Aalim or Sunni Ulama Body to be part of such a Roýate Hilaal committee. Faqihe A’zam Pakistan Hazrat Mufti Abul Khair Noorullah Naeemi Baseerpuri (May Allah be pleased with him) writes:

“If a Sunni Aalim is involved in a Hilaal Committee which gives the ruling with Sharée Daleel (proof), such a hilaal committee is reliable” (Fatawa Nooria vol 2 page 269) (this Fatwa refers to the Hilaal Committee in Pakistan in which there are Sunni Ulama and BadMazhab as well)

Mufti-E-A’zam Pakistan Hazrat Mufti Waqaruddin Amjadi (May Allah be pleased with him) a trustworthy student of Huzoor Sadrush Shariah who completed Bahare Shariat according to the order and the Wasiyyat (will) of Huzoor Sadrush Shariat, part number 18, 19 and 20 of Bahare Shariat are completed by this great luminary, was a member of the Roýate Hilaal Committee in Pakistan when Ihtishamul Haq Thanvi, a Deobandi, was the chairman of this committee. You may check Waqarul Fatawa vol2 page 420.

The following are the members of the Roýate Hilaal committee Sindh Pakistan:

1. Allamah Qari Raza ul Mustafa A'zami (Sunni)
2. Moulana Bashir Ahmad Naqshbandi (Deobandi)
3. Moulana Asad (Deobandi)
4. Moulana Shah Fairozuddin (Sunni)
5. Molulana Hafiz Muhammad Salafi (Ahle Hadith)
6. Mufti Sayyid Sabir Hussain (Sunni)
7. Moulana Muhammad Sabir Noorani (Sunni)
8. Sayyid Ali Karraar Naqvi (Shia, Ithna Ashari)

(Tafheemul Masail vol 5 page 252 by Mufti Munibur Rahman the present chairman (2014) of ROÝATE Hilaal committee, Pakistan)

Above are the few names of Ulama who are on the Roýate Hilaal committee and the first name "Hazrat Allamah Qari Raza Ul Mustafa A'zami" is the son of Huzoor Sadrushariah Badrut Tariqah Hazrat Mufti Amjad Ali A'zami (May Allah be pleased with him) the author of Bahare Shariat.

Paskistan is a Muslim country. A model of such a blended Roýate Hilaal committee is present therein and thousands of Sahihul Aqeedah Sunni Razvi Barailvi Ulama endorse this committee and accept the decisions which this committee makes with regards to moon sighting. Thus if in South Africa, such a Roýate Hilaal committee operates and the Muslim masses accept the decisions of this committee, it is indeed allowed for Sunni Ulama to be part of such a Committee. This exercise would never be regarded as turning away from the Ahle Sunnat wal Jamaat due to the circumstances. Bringing necessary changes within the framework of the sacred Shariah and saving the Sunni Masses from dispute and confusion is the way of all jurists. Otherwise we would end up accusing many great Sunni authorities (Ulama and Fuqahah) from Pakistan of turning away from the mainstream Ahle Sunnat wa Jamaat. Sunni Ulama's joining this committee is based on the need and circumstances. Sunni Ulama of Pakistan have realised the need, justified it in the light of Shariat and accepted such a Roýate Hilaal Committee.

Note: In Pakistan there is no binding regulation of government with regards to Roýate Hilaal Committee as in Saudi Arabia, Middle Eastern Countries, Malaysia and Indonesia. In Pakistan if you don't join or follow the Roýate Hilaal Committee, it is not a state crime and people are not jailed or punished because of not respecting or supporting the decision of the Roýate Hilaal Committee. In fact till today almost every year Eid is celebrated on a separate day in the Sarhad province of Pakistan. The people of that province don't

accept the decision of the Roýate Hilaal committee. They are not jailed, arrested or harassed by the government.

Therefore to say that in Pakistan the participation of Sunni Ulama is Jabari (forced by the government) is not true.

Q. In the case where Muslims are celebrating Eid on different days, should we follow the majority or are there other criteria to be met?

A: If the majority is fasting or celebrating Eid we should be with the majority.

Faqihe A'zam Pakistan Hazrat Mufti Noorullah Naeemi (May Allah be pleased with him) writes:

"The correct opinion is that it is necessary to fast and support the masses. When the Muslim masses are in the majority and according to Sharée Techniques, observing fast or celebrating Eid ul Fitr or Eidul Adha or Woqoof of Arafaat for Haj, it is necessary to accept and join them. Because according to Almighty Allah Azza Wa Jal those days would be regarded as the days of Ramadan, Eid or Haj.

It is mentioned in the Marfu' Hadith of Ummul Mo'mineen Hazrate Sayyidah Ayesha Saddiqah (May Allah be pleased with her) "Eidul Fitr is on that day when people make Eid and Eidul Adha is on that day when people make Eid" (Tirmizi page 111) (Fatawa Nooria Vol 2 page 272)

Faqihe A'zam Pakistan (May Allah be pleased with him) has quoted 5 more Ahadith and 6 references from authentic Hanafi Fiqh books on this topic (follow the majority in fasting or in Eid). Anyone interested to know more should study Fatawa Nooria vol 2 page 272.

Q. Can television or Radio be used to make the announcement of the sighting of the moon? What was Imaam Ahmed Raza's view on this?

A: Faqihe A'zam Pakistan (May Allah be pleased with him) replies to this question:

"Imame Ahle Sunnat (A'la-Hazrat) has never regarded the Shariah based announcement of Radio as unreliable. Yes, there are such refuting texts of A'la Hazrat (May Allah be pleased with him) which he has written in regard to telegrams, newspapers and radio news which is not the announcement of the

Qazi but is just a rumour. Let alone the announcement of the sighting of the moon, A'la Hazrat (May Allah be pleased with him) even accepts and validates the firing of canons. How would he then regard the announcement of the moon sighting on the radio (an announcement which is done by the Qazi or on behalf of the Qazi with proper Shahadat) as invalid? In none of the books of A'la Hazrat (May Allah be pleased with him) is it said that he is against the announcement of Radio (which is Shariah based). If the announcement of Radio is unreliable then no announcement should be regarded as reliable even the firing of a canon and the beating of drums. A'la Hazrat (May Allah be pleased with him) has accepted these sounds as announcements and trusted and validated it, therefore there should be no problem with Radio announcements. (Fatawa Nooria vol 2 page 265)

Faqihe A'zam Pakistan (May Allah be pleased with him) writes further:

"According to Shariat one particular method is not fixed for the announcement. Even beating of drums, firing of canons and lighting lamps (or globes) can become announcements. If according to Shariah the moon is sighted, then the Sharée announcement, even if it is on the radio is acceptable. Ramadan and Eid would take place based on that announcement" (Fatawa Nooriah vol 2 page 270).

If the Qazi (the chairman or authorised member of Roýate Hilaal Committee) makes the announcement on TV after the moon sighting has been proven with Sharée standards, the Ghalabe-e-Zan (strong presumption) which is attained with the TV announcement is much stronger than what is attained with the firing of a canon. Therefore the announcement on TV would be an even stronger way than radio because in the case of TV one can see the face of the announcer.

Q. What are the methods of proving moon sighting according to the teachings of Ala Hazrat (May Allah be pleased with him) and are those the only methods applicable?

A: According to the research of A'la Hazrat (May Allah be pleased with him) there are 7 ways in Shariah to establish the moon sighting.

1. **Personal evidence of witnesses**: It means the Shahadah of those who have sighted the moon.

2. **Shahadat Ala-shahadat**: It means the witnesses did not see the moon themselves but the moon sighting person (Shahid) gave evidence in the presence of them and he made them witnesses upon his sighting of the moon and they gave Shahadat of his Shahadat in the presence of the Qazi. (this is only allowed when the original witnesses are excused based on Sharée reasons)
3. **Shahadat Alal-Qaza:** It means in some of the Islamic cities Shahadat was given in the presence of the ruler of Islam and he ordered that the moon has been sighted. 2 pious witnesses who were present there at that time, went to another city and gave Shahadat in front of the Qazi that so and so Qazi has declared the moon sighting.
4. **Kitabul Qazi Ilal Qazi:** It means the Sharée Qazi who is appointed by the ruler of Islam to pass judgements in Islamic matters, informs the Qazi of another city about the Shahadat of sighting the moon in accordance with the conditions laid down by Shariat.
5. **Istifaza:** It means the news of the sighting of the moon with Sharée Shahadat and the announcement of the Qazi becomes common by means of few groups of people coming from the city where the moon was sighted and informs the people of the new city that the moon has been sighted in place where we are coming from.
6. **Ikmaal-e-Muddat:** It means when 30 days are completed of a lunar month then the crescent of the new month is established automatically because it is certain that a lunar month is never more than 30 days.
7. **Canon Shots:** In any Islamic city by the order of an Islamic ruler a canon shot or gun shots were fired. This is also a way from the stipulated ways of proving the moon sighting for that city or even for the villages nearby. (Hashiya Bahare Shariat Vol 1 part 5 page 979 Mukharraj, publisher Maktabatul Madinah. Fatawa Razvia vol 10 page 405 to 420)

A'la Hazrat (May Allah be pleased with him) writes at the end of the 7th method of proving moon sighting:

"Similar known stipulated methods can be established with the instruction of the ruler of Islam like firing canon shots or beating the drum etc.(Fatawa Razvia vol 10 page 420)

Sayyidi A'la Hazrat (May Allah be pleased with him) has mentioned 7 methods of establishing moon sighting with the references of many books of Fiqh but he has not restricted the moon sighting to these 7 methods. If there is any other

way or sign established through which Muslim masses have Ghalaba-e-Zan (strong presumption) of moon sighting that method would also be valid and reliable.

Q. Can the news of the sighting of the moon **via telephone** become Khabr-e-Mustafeez (reliable news)?

A: Firstly, the person relaying the message via telephone needs to be a pious person with good character and accurate in reporting this news.

However, if the news is relayed by 100s of people to 100s of people who are known to one another, some of them are family or friends, their phone numbers are registered on your phone, you recognize their voices, they live in different parts of the city where the moon was sighted and the Qazi has made an announcement of the crescent being sighted after taking Shar'ee Shahaadat. Also this news has become common in that city from where hundreds of people like you are getting news via the telephone. Additionally, the Sunni Ulama bodies have verified the sighting of the moon from other authentic Sahihul Aqidah Sunni Ulama. This would definitely give Ghalaba-e-Zan (strong presumption) and Ghalaba-e-Zan is a good credible reason to make an action compulsory. This would be regarded as Khabr-e-Mustafeez as many Ulama now believe.

In the above scenario where 100s of people are relaying the same message, it is inconceivable and beyond comprehension that so many people will try to distort/misinform us about the news. It is near impossible for them to pretend to be someone else and call you from your relative's or friend's phones from different parts of a city at the same time on such a large scale. However, if the message/news does not say that the Shahaadah was taken by a Qazi (Aalim, Mufti or Ulema Body) and the Qazi has made the announcement then such news cannot be accepted. Mere rumours have no credibility in Islam and nothing in Islam can be established by rumours even if millions of people make phone calls.

In the past scenario was very different. The quality of transmission of sound on telephone calls in the early 1900's comparatively to the present time was very poor. In those days one could hardly recognise the voice of the caller and the usage of telephones was uncommon. People would not rely on telephones and

would not conduct business worth millions on the telephone. But today things have changed. Technology has advanced so much so that the use of phones has become an essential part of our worldly and religious lives. Therefore, the news of the sighting of the moon received via telephone in the above mentioned circumstance and *SHARAAIT* (conditions) would be reliable and the commencement of Ramzaan and Eid can be observed on this news received via cell phones/telephones.

Note: Many Ahle Fatwa Sunni Ulama in India have expressed their views that 3 or 6 or 9 or 12 calls should be sufficient for Istifaza-e-Khabr. They held seminars in different cities of India. In Holland the Ulama have agreed to 3 calls for Khabr-e-Mustafeez. I am aware of the Ikhtilaaf of Ulama-e-Ikraam and I respect that, there are indeed opposing opinions to my one on this issue, but I am just sharing this with Ulama-e-Ikram to display that I am not the only one who has this viewpoint.

Sooner or later this would become the acceptable way because this has become the commen practice of messes, as it has happened with many Masaail in the past, those Masaail are in the books but have vanished from the prectices of people. Ulama-e-Ikraam are thinking and having seminars on this topic since they are realising that the habits of people have changed. Today if you tell people that your voice can be mimicked therefore the news on the phone is unreliable, they will take it as a joke because they use the phone to conduct too many worldly and religious affairs.

Q. There is a Youtube clip where someone interviews a Muhammed who was allegedly interviewed by Moulana Aslam (it was later found out that Moulana Aslam did not take Shahaadat from Muhammed). Even if Moulana Aslam took Shahaadat from Muhammed, he was asked if he goes to Meelaads, visits Mazaars etc to which he said no (he doesn't go to Meelaads or Mazaars). The questioner concluded that Moulana Aslam took Shahaadat from a Wahabi/Deobandi and the Shahaadat is invalid. What is your view on this? Is the Shahaadat valid?

A: A person not participating in Melaad or not going to Mazaar does not necessarily make him a Wahabi. There is a possibility that he does not attend Melaad for some other reason as mentioned in Fatwa Razvia Shareef:

“If (an Imam’s) non participation in Melaad Shareef and disliking of standing (at Salami time) is not based on Wahabi principles, for example he is not free at that time, he is busy with something important, or the speaker at Melaad function will read baseless narrations which are against Shariat, or he has worldly or Deeni bitterness with the host, namaaz behind such a person is Jaaiz without Karaahat (dislike). Similarly disliking of standing (in Salami) is because of his misunderstanding the Masála and not because of his Wahabi Aqaid, then Namaz behind such a person is Jaaiz without any Karaahat (dislike). However, in our countries (subcontinent), the situation of denying Melaad and the dislike (in standing) is not found accept in the Aqida of Wahabies. Here (in subcontinent) only Wahabi losers deny Melaad Shareef and standing, to read Namaz behind Wahabies is not allowed and it is a sin”(Fatawa Razvia vol 6 page 502).

A few things must be noted in the above Fatwa:

1. A Wahabi is that person who agrees with and subscribes to the Aqaa’id of Wahabis.
2. A’la Hazrat has mentioned twice the words “in our country” because in the subcontinent there is enough awareness about the Aqidah of the Wahabis. This would not be applied on the general public of other continents who don’t have any cultural or linguistic link with the subcontinent.
3. The non-participation in Meelaads does not always have to be due to the Aqidah of the Wahabies. There could be other justifiable reasons as well.

I have heard the YouTube clip. In the clip the person is asked if he attends Meelaad etc. He should have been asked whether he believes that Melaad is jaiz or Na Jaiz. Based on the questions asked in the voice clip, one cannot conclude that the person is a Wahabi (as mentioned in Fatawa Razvia Shareef). There can be many reasons for him not going to Melaad or to Mizaars, some I have mentioned from Fatwa Razvia. Maybe there is intermingling of sexes and he does not want go there. Maybe he is brought up in a city or village where Melaad does not take place and he does not know much about Melaad and this practice is strange to him. There could be 100s of reasons. What is his Aqida regarding Milaad? That was a crucial question and this question was not asked in that voice clip. In Fatawa Razvia or Bahare Shariat or any other Sunni Fatawa books, this way of questioning and assessing the witnesses is not mentioned. Huzoor Sadrushariah writes that if the witness publically insults

Buzurgaan-e-Deen and Sahabah then his Shahadat is rejected. (Bahare Shariat part 12 page 949). The quotation of Bhare Shariat makes it clear about the Aqidah of the person because he openly badmouths the beloveds of Allah and by doing so his Aqida becomes clear (that he is Wahabi or Shia). The question should be, what his Aqidah about Melaad and going to Mizaars is? **Not if he goes to Melaad or does not go to Melaad.**

A'la Hazrat (May Allah be pleased with him) makes it very clear that the participation in Melaad or Qiyaam or not participating, is not the standard of judging someone as a Wahabi or Sunni.

"Through (participation in) Melaad or Qiyaam one cannot be recognised, rather Zaid must be asked about the Aqidah of Wahabis in detail. Further he (Zaid) must be questioned about Ismail Dehlavi and the authors of Taqviatul Iman, Braheene Qatia', Tahzeerunnaas and Hifzul Iman. If the answers to all these questions are the same as the Ulama of Haramain Shareefain have written, then definitely he will be regarded as a Sunni until something against the Aqeedah of Sunniyyat is revealed. And if his answer is against the writings of the Ulama of Haramain Shareefain, in which they have given the ruling of Kufr (disbelief), Gumrahi (misguidance) and Irtidaad (apostasy) on the authors of these books, or he dillydallies about this issue then indeed he is not a Sunni and he is part of them" (Fatawa Razvia vol 29 page 229 to 230)

If an oblivious person went with Jamaat because of the deceptions of Tablighi Jamaat as they misinform and trick people on the name of Namaaz and service to Deen, this also does not make him a Wahabi. In the above quotation of Fatawa Ravia, Sayyidi A'la Hazrat makes it very clear that the Wahabi is that person who endorses the Kufriya statements of the authors of Hifzul Iman and Braheene Qati'ah etc. general public from many African countries (**these witnesses are from one of the African countries**) don't know the difference between Wahabies/Deobandies and Sunnis. Most of them are not aware of the blasphemies of Wahabies/Deobandis and due to ignorance they join the Jamaat thinking that they are doing some good work. It would be totally unethical to regard such an oblivious person as a Wahabi. This is indeed not the view point of Sayyidi A'la Hazrat or any other Akabir Sunni Ulama. To prove the Kufr and Irtidaad of someone, we require clear-cut, categorical and Yaqeeni Dalaail. Zanni Dalaail (presumed or circumstantial proofs) are insufficient in this regard.

I have personally asked Moulana Aslam if the person interviewed in the YouTube audio clip is one of the 3 people he took Shahaadat from. Moulana Aslam categorically denied taking Shahaadat from him.

There is no need to continue further on this point since one cannot conclude from the conversation that the person is a Wahabi and secondly he was not the person Moulana Aslam interviewed.

Q. Can we classify everyone who doesn't attend Meelaads or visits Mazaars as a Wahabi?

A: The quotation of Fatwa Razvia in the previous answer is a clear answer to this question as well. However, I will try to shed some more light on the issue.

Ghazali-e-Zaman Hazrat Sayyid Ahmad Saeed Kazmi (May Allah be pleased with him) writes:

"Although Wahabi and Deobandi are two separate words but only those people are meant by it who besides themselves, regard every other Muslim as Kafir, Mushrik and Bada'ti. Their elders have written such statements in which our beloved Rasool (Peace be upon Him), other Prophets (peace be upon them) and the beloveds of Allah are insulted" (Maqalaate Kazmi vol2 page 259)

Ghazali-e-Zamaan (May Allah be pleased with him) writes further:

"According to us only those people are Kafirs who have openly insulted Allah Azza Wa Jal and His beloved Rasool (Salallahu alayhi wasallam) and they did not repent, even though strong warnings were given to them. Furthermore those people who regard these Kufr Statements as Haqq and regard the insulters as people of Haqq and their spiritual leaders. Besides these we do not regard any Muslim as a Kafir" (Maqalaae Kazmi vol2 page 273)

It is clear from the writings of Ghazali-e-Zamaan that a person is regarded as a Wahabi or Deobandi if he accepts the Kufriya writings of the Deobandi chiefs as Haqq and endorses them. However, if an uninformed layman who comes from an African country and is unacquainted with the culture and languages of the subcontinent, he does not know anything about the religious problems which have occurred in the subcontinent, and we have not scrutinised his Aqidah regarding Kufriya statements of Wahabies/Deobandies, **he is not a WAHABI.**

In the definition of Wahabi and Deobandi, Qibla Khazmi Shah Sahib has talked about Aqida and we will only know about a person's Aqida if we question the person about his Aqida with clear words. Just to ask whether he goes to Melaad or not, goes to Mizaars or not, will not determine whether the person is Wahabi or not Wahabi. To regard someone as a Wahabi is a very serious statement because in the books of Sayyidi A'la Hazrat and other Akaabir Ulama the word Wahabi is used for the Murtad and Kaafir who subscribes to and endorses the Kufr beliefs of the Wahabis/deobandies. **To prove a Kufr of someone a categorical proof is required. A circumstantial proof is not enough in this regard**.

Huzoor Sadrushariah (May Allah be pleased with him) writes:

"**If one believes that someone is a Kaafir and in reality that person is not a Kaafir then the one who regards him as a Kafir becomes Kafir because to regard a Muslim as a Kaafir is to believe that Islam is a Kufr and to regard Deen-e-Islam as kufr is a Kufr itself" (see detail on this Masaála in Bahare Shariat part 9 vol 2 page 408 *MUKHARRAJ*)**

Members of public who are quick to call someone a Wahabi, please take heed from the above mentioned quotation of Bahare Shariat.

A'la Hazrat (May Allah be pleased with him) writes:

"The one who sits with them thinking they are Muslims or he doubts their Kufr and he is **aware** of their statements then indeed he is Kaafir but if he believes with certainty that they are Kaafirs and he still socialises with them, **he would not become a Kaafir but this association will definitely be regarded as a sin**"(Fatawa Razvia vol 21 page 278-279)

Take note of the carefulness of Sayyidi A'la Hazrat (May Allah be pleased with him), he puts the condition of "he is **aware** of their statement" and also take note of the words "regarded as a **sin**" and pounder upon the Fatawa of our great Imam.

Sayyidi A'la Hazrat (May Allah be pleased with him) further writes:

"Yes, if in reality, **a newcomer or total ignorant person or such an unaware person** who has not heard of the Kufr (of wahabi/deobandies) and due to absolute unawareness does not regard them as Kaafirs, such a person is

exempted until he is explained (of their disbelief) and after being informed he immediately accepts (their heresy).” (Fatawa Razvia vol 21 page 284)

It is so crucial for us to ponder upon the words of Sayyidi A’la Hazrat in the above two quotations of Fatawa Razvia Shareef. How careful A’la Hazrat was about the Fatwa of Kufr and regarding someone as Wahabi? In following the footsteps of Sayyidi A’la Hazrat we should also exercise care and consciousness in this sensitive field. Regarding people as Wahabies/deobandies hastily can be risky for our own Imaan.

Q. Moulana Aslam went to the Jamiat offices to take Shahaadat. Is his going and taking Shahadah correct? Everyone knows that Jamiatul Ulema is a Deobandi Ulema body. Is the Shahaadat taken at their offices valid?

A: It is mentioned in Fatawa Aalamgeri that in our time the Qazi does not go himself to take Shahadat. The meaning of this quotation of Fatawa Aalamgeeri is explained in Fatawa Ajmaliya

“It is contrary to the integrity of a Qazi/Mufti of one city to go to another city himself for investigation purposes regarding the sighting of the moon. His action is not ethical and prohibited. (Fatawa Ajmaliya vol 2 page 668 by Ajmalul Ulama Hazrat Mufti Muhammad Ajmal Qadri Razavi Sambhali (May Allah be pleased with him).

The quotation of Fatawa Aalamgeeri in no way suggests the fact that it is forbidden for the Qazi to go to another town or place to take the original Shahaadah. If the Qazi went to another city or place where there is no Qazi and his going there was to take the original Shahaadat, this Shahaadah cannot be rejected on the basis that the witness did not come to the Qazi, instead the Qazi went to the witness to take his Shahaadah.

If the office of Jamiat is the office of United Ulama Council as well, of which the Sunni Ulama Council is a member of, then at this crucial time, it is Jaaiz to go to that mutual office. Although I believe it is unfitting for a Sunni Aalim to go there because it is a blameworthy place of Tohmat (one can be accused as a Bad Mazhab or Soluh Kulli) unless there is a crucial and genuine need. However, the Shahaadat would not be rejected if it was taken in the Jamiat’s office, because jamiat’s office acts as an office for UUCSA as well. And if for instance Jamiat’s office was not acting as UUCSA’s office still too we need a Sharée proof to reject the Shahadah, just because Shahaadat by Sunni Aalim

was taken at the office of Jamiat is not a Sharée proof of rejection of Shahadah.

Q: If a Qazi makes a mistake in his decision making, should we still accept his judgement?

A: Yes, the judgement of the Qazi will still be accepted. The right of acceptance or rejection of Shahadah is with the Qazi. Shahadat on its own is not a Proof of Sharia no matter how accurate it might be otherwise the witness will become the Qazi himself. The function of a witness is to give Shahadah in front of a Qazi and it is the authority of the Qazi to accept or reject it. It is mentioned in Tafheemul Masaail by Mufti Munibur Rahman Sahib:

If a Qazi knowingly makes a wrong decision he will be questioned in the Court of Allah on the day of judgement and if he makes a judicial error he will not be questioned on the day of judgement. He will still definitely get reward and his decision will be valid and enforced provided that his decision is not against the Laws of the sacred Shariah. (For detailed information on this subject, we suggest the reader to consult with authentic books of Fiqh and Usool al-Fiqh).

It is mentioned in a Hadith Sharif: “Umm ul Mohmineen Sayyidah Umme Salama (May Allah be pleased with her) reports that our beloved Nabi (Salallahu alayhi wasallam) stated

“You bring your matters to me. It is possible that in light of the facts presented in my presence, I may rule in the favour of your opponent. This is so because he may present his case in a more convincing way. If I give something to anyone from the rights of one’s brother, he should not take it because of the fear of Allah. (He must think) I am giving him a piece of fire (Sahih Muslim Hadith Number 4364)

We learn from this Hadith that the decision of a Qazi is valid and enforced. Sometimes it can be against reality. Sayyiduna Rasoolullah (Salallahu Alayhi wasallam) had the knowledge of the unseen and he said this to teach his Ummah and not due to any defect in his Divinely Blessed Knowledge. This is so because it is not possible for every Qazi to always make the correct decision.

A Qazi is not infallible. He is duty bound to use his academic capabilities with sincerity and he must decide on an issue by the virtue of the available clear evidence in the light of Quran and Sunnah. He will be indeed rewarded for this.

(Tafheemul Masaail, Vol 5, page 247 to 248. By Hazrat Mufti Munibur Rahman, the present Chairman of central Roýate Hilaal committee of Pakistan)

Q: Can a Jahil (ignorant person) and Faasiq (a sinner) be appointed as a Qazi?

A: The one who appoints a Jahil or a Faasiq as a Qazi would become a sinner. Such transgressors should not be put on this prestigious position. However, a Jahil and a Faasiq can become a Qazi. Their decision would be valid and enforced upon the Muslim community. (See detail in Fatawa Razvia Vol 18 page 175)

A'la Hazrat (May Allah be pleased with him) says further:

"It is not a condition that the Qazi Must be an Aalim or Mujtahid" (Fatawa Razvia vol 18 page 175)

Q: Who appoints the Qazi in a non-Islamic State?

A: Ulama and the Ulama bodies are automatically Qazis in non-Islamic countries. There are many proofs of it in Fatawa Razvia vol 18. However the public can also appoint a Qazi. A'la Hazrat (May Allah be pleased with him) writes:

"In the non-Islamic states if the Muslims have appointed someone as a Qazi with mutual consultation, he must decide in their matters and he will become a Qazi Saharée. (Fatawa Razvia vol 18 page 176)

Q: Should we keep Qadha fast for celebrating EID on Monday?

A: Qaza is not obligatory because the moon sighting was correct. So far we have not found anything substantial to prove that the Shahaadah taken by Moulana Aslam was invalid. However, if anything is established in the future that the Shahaadah was invalid our view can also change.

If the brothers (who are doubtful about the Shahaadah which Moulana Aslam took) want they can advise Ihtiyati Qaza (precautionary Qaza fast) but not the compulsory Qaza. However, if those brothers feel they have reached certainty that the witnesses were Wahabis and Qaza of Roza is obligatory, then they have to provide categorical proofs of this in the Shar'ee manner as propounded by Sayyidi A'la Hazrat and Sayyidi Ghazali-e-Zaman (May Allah be pleased with them). It is essential because categorical proofs are required for proving the Kufr and Irtidaad of someone. On the contrary, we cannot base

such an important issue on Zanni proofs (supposed proofs). Just because Moulana Aslam went to Jamiat's office and the witnesses were brought by a Deobandi Imam to Jamiat's office is not a Yaqeeni (categorical) Daleel that the witnesses are Wahabis.

I have already mentioned that the witnesses in this case were native Africans. I reiterate the previously mentioned point of the great Mujaddid Imam Ahmad Raza Khan Muhaddith-e-Brailvi (May Allah be pleased with him):

"Yes, if in reality, **a newcomer or total ignorant person or such an unaware person** who has not heard of the Kufr (of wahabi/deobandies) and due to absolute unawareness does not regard them as Kaafirs, such a person is exempted until he is explained (of their disbelief) and after being informed he immediately accepts (their heresy)." (Fatawa Razvia vol 21 page 284)

By virtue of the above explanation, after the uninformed persons are informed of the Kufr Aqaaid and writings of the Wahabis/Deobandis and they still support them and endorse their Kufriya beliefs, then they will be regarded as one of them and their Shahaadat will be totally rejected.

Q: Why do we not just follow the same Eid of Makkah and Madeenah?

A: We cannot do that. We are ordered by our beloved Nabi (Peace be upon Him) to start our Ramadan and our Eid by sighting our own moon: "Fast by sighting the moon and celebrate Eidul Fitr by sighting the moon" (Sahih Bukhari- Chapter on Sighting the Moon and fasting. ***BAB IZA RA AITUMUL HILAALA FA SOOMU*.** Qadimi kutub khana vol 1 page 256).

Q: What is the way forward to prevent any repetition of these controversial issues? Please document the way forward and have 'Ulema sign it.

A: The way forward is very challenging but I am confident that the Ulema will come up with a workable solution. In order to achieve this we have to be open to criticism, broad minded and solution driven. We have a very diverse group of Sunni Ulema in this country who come from different countries, Darul Ulooms and Silsilas etc. Some studied in India, Pakistan, Jordan, Egypt, South Africa and other countries. Some are young and vibrant whilst others are older and experienced. We have to put our insignificant differences aside and look at

the betterment of Sunniyyat. We cannot be polarized by nationality, race, Silsila or which country we studied in etc. We have to include all our local Sunni Ulema no matter what our differences might be. Sincerity and humility are two attributes needed to find a solution to this and other problems. I propose that the Ulema research this topic thoroughly and agree to a conference where different views are shared and commit to a solution and a resolution that would be practical and unifying and befitting the situation of our country and also embracing the mind-sets, culture and the habits of people of this country.

I also feel that the public should avoid slandering and insulting the Ulema especially because they (the public) are not experts in this field. Ulema have had differences of opinion on various issues for centuries but there was always respect for differences of opinion. As long as our Ulema are on the path of Ahlus Sunnah wal Jamaat they are indeed on the Maslak of Sayyidi A'la Hazrat therefore we must respect and love them.

I have answered the Fiqhi questions only and refuse to be drawn into a spat with any of my Ulema colleagues. I have utmost respect for my colleagues and would entertain constructive academic dialogue. I have no intention of insulting or undermining any Sunni Aalim or Imam.

I make Dua that Allah Azza Wa Jal accepts my efforts and the efforts of other Sunni Ulema and forgive us for our shortcomings for the sake of His beloveds. May Allah grant us Toufiq to sincerely serve the beloved Ummah of Sayyiduna Rasulullah salallahu alayhi wa sallam.

Faqir Abdun Nabi Hamidi Qaadiri Radawi Zia'ie